

ORAL ARGUMENT NOT YET SCHEDULED

**U.S. COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA CIRCUIT**

State of Oklahoma, *et al*,

Petitioners,

v.

Environmental Protection Agency and
Michael S. Regan, Administrator,
United States Environmental Protection
Agency,

Respondents.

No. 24-1125

(consolidated with No. 24-1127)

JOINT MOTION TO CONTINUE ABEYANCE FOR 90 DAYS

Petitioners and Respondents move the Court to continue holding these consolidated cases in abeyance for an additional 90 days, with motions to govern due March 6, 2025, to allow the Environmental Protection Agency (EPA) additional time in which to act on a pending petition for reconsideration of the action challenged in this case. All Intervenorrs oppose an abeyance of an additional 90 days but have indicated their willingness to consent to a shorter abeyance of 30 to 40 days. The grounds for this motion are as follows:

1. Petitioners in consolidated Case Nos. 24-1125 and 24-1127 challenge a final action of EPA, entitled *Accidental Release Prevention Requirements: Risk*

Management Programs Under the Clean Air Act; Safer Communities by Chemical Accident Prevention, published at 89 Fed. Reg. 17,622 (March 11, 2024) (“Final Rule”).

2. On May 10, 2024, petitioners in Case No. 24-1127 filed a petition for reconsideration of the Final Rule with the Administrator of EPA. The issues raised in the reconsideration petition are related to issues likely to be raised by petitioners in these consolidated cases. *See* Doc. No. 2067245.

3. On July 30, the Court granted EPA and Petitioners’ joint, unopposed motion to hold this case in abeyance for 120 days to allow EPA additional time to potentially act on the pending reconsideration petition. Doc. No. 2067360. At that time, the Court ordered the parties to submit motions to govern further proceedings no later than December 6. *Id.*

4. EPA continues to review and consider the reconsideration petition, but EPA has not yet been able to act on it, and Petitioners and Respondents request an additional 90-day abeyance in which EPA may act. Continuing the abeyance could avoid the risk of duplicative briefing. If the petition is denied, an abeyance could allow any petition for review of that denial to be consolidated with these cases.

5. In light of the motion to continue the abeyance, Petitioners and Respondents request that the Court not enter the joint briefing proposal the parties filed with the Court. *See* Doc No. 2067248.

For these reasons, Petitioners and Respondents respectfully request that the Court order that the consolidated petitions for review continue to be held in abeyance for 90 days, with motions to govern due March 6, 2025.

Respectfully Submitted: December 6, 2024

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Certificates of Compliance and Service

I certify that this filing complies with Fed. R. App. P. 27(d)(1)(E) because it uses 14-point Times New Roman, a proportionally spaced font.

I also certify that this filing complies with Fed. R. App. P. 27(d)(2)(A), because by Microsoft Word's count, it has 388 words, excluding the parts exempted under Fed. R. App. P. 32(f).

Finally, I certify that on December 6, 2024, I filed the foregoing with the Court's CMS/ECF system, which will notify each party.

Dated: December 6, 2024

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